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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/043,369	01/09/2002	John E. Fetkovich	END920010044US1	6345
30743	7590	04/07/2005	EXAMINER	
WHITHAM, CURTIS & CHRISTOFFERSON, P.C. 11491 SUNSET HILLS ROAD SUITE 340 RESTON, VA 20190			MOORTHY, ARAVIND K	
			ART UNIT	PAPER NUMBER
			2131	

DATE MAILED: 04/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/043,369	FETKOVICH, JOHN E.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Aravind K Moorthy	2131	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 07 December 2004.

2a)  This action is FINAL.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1,3-21,23 and 24 is/are pending in the application.  
4a) Of the above claim(s) 2 and 22 is/are withdrawn from consideration.

5)  Claim(s) 21 is/are allowed.

6)  Claim(s) 1,3-20, and 23 is/are rejected.

7)  Claim(s) 24 is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 09 January 2002 is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. This is in response to the amendment filed on 7 December 2004.
2. Claims 1, 3-21, 23 and 24 are pending in the application.
3. Claims 1, 3-21, and 23 have been rejected.
4. Claim 21 has been allowed.
5. Claim 24 has been objected to as being dependent upon a rejected claim.
6. Claims 2 and 22 have been cancelled.

#### *Response to Amendment*

7. The examiner approves the amendment to the specification. No new matter has been added. The grammatical errors have been corrected.
8. The examiner approves the amendment to the abstract. The abstract no longer exceeds the 150-word limit.

#### *Response to Arguments*

9. Applicant's arguments filed 7 December 2004 have been fully considered but they are not persuasive.

On pages 9 and 10, the applicant argues that Warren does not teach a number of different decryption keys.

The examiner respectfully disagrees. Warren does teach different types of keys. Warren also teaches the key changing during different frames.

On page 10, the applicant argues that none of Graunke, Duncan or Okada includes a utility of using different encryption keys.

The examiner asserts that none Graunke, Duncan or Okada was used to teach a utility of using different encryption keys. Warren teaches different encryption keys, as discussed above.

On page 11, the applicant argues that Lee makes no mention of, and does not suggest use of an encrypted file with two different decryption keys.

10. Applicant's arguments, see pages 11 and 12, filed 7 December 2004, with respect to claims 21 and 24 have been fully considered and are persuasive. The rejection of the claims has been withdrawn.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

**10. Claims 1, 5-7, 9, 12-14, 16 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Warren et al U.S. Patent No. 5,963,909.**

As to claim 1, Warren et al discloses a method for controlling access to digital information, comprising:

storing digital information in an encrypted form on a host system [column 11, lines 5-16]; and

reproducing the digital information using a media player application on the host system, the reproducing step including degrading a reproduction quality of the digital information based on at least one of a time condition and a use condition [column 11, lines 33-42].

storing data on the host system which correlates a first type of decryption key with a first type of reproduction quality degradation performed based on at least one of the time condition and the use condition [column 16, lines 16-24];

storing the first type of decryption key on the host system [column 16, lines 25-29];

comparing the first type of decryption key to the data stored on the host system to identify the first type of reproduction quality degradation [column 11, lines 33-42],

wherein the reproducing step includes degrading the reproduction quality of the digital information in accordance with the first type of reproduction quality degradation identified in the comparing step [column 11, lines 33-42].

As to claims 5 and 12, Warren et al discloses that the reproducing step includes degrading the reproduction quality of the digital information by altering a decompression of the digital information [column 10, lines 21-31].

As to claims 6 and 13, Warren et al discloses that the reproducing step includes degrading the reproduction quality of the digital information by altering a rendering of the digital information [column 11, lines 33-42].

As to claim 7, Warren et al discloses that the host system is one of a personal computer, a personal digital assistant, and a digital set-top box [column 5, lines 24-32].

As to claim 9, Warren et al discloses a method for controlling access to digital information, comprising:

acquiring digital information for reproduction on a host system [column 10, lines 21-31];

sending the digital information to the host system with a first decryption key, the first decryption key instructing an application program on the host system to degrade the reproduction quality of the digital information based on at least one of a time condition and a use condition [column 11, lines 33-42].

As to claim 14, Warren et al discloses the sending step includes sending the application program with the digital information and the first decryption key [column 11, lines 43-55].

As to claim 16, Warren et al discloses storing data in the application program which correlates the first decryption key with a first type of reproduction quality degradation performed based on at least one of the time condition and the use condition [column 11, lines 32-42].

Warren et al discloses that the application program performs the first type of reproduction quality degradation when executed on the host system [column 11, lines 32-42].

As to claim 20, Warren et al disclose defining a pricing structure wherein the second decryption key is priced higher than the first decryption key [column 11, lines 32-42].

**11. Claim 23 is rejected under 35 U.S.C. 102(b) as being anticipated by Eller et al U.S. Patent No. 5,889,860.**

As to claim 23, Eller et al discloses a method for controlling access of digital information, comprising:

storing digital information in an encrypted form on a host system [column 5, lines 14-37];

storing an application program for reproducing the digital information on the host system [column 5, lines 38-53];

storing a first decryption key on the host system [column 5, lines 53-56]; and activating the application program to reproduce the digital information on the host system, the application program reproducing the digital information based on the first decryption key, the first decryption key controlling the application program to reproduce only a portion of the digital information [column 5 line 65 to column 6 line 11].

*Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**12. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Warren et al U.S. Patent No. 5,963,909 as applied to claim 1 above, and further in view of Okada U.S. Patent No. 6,643,402 B1.**

As to claims 3 and 4, Warren et al does not teach that the information that indicates that the digital information is to be reproduced without degradation in quality instructs the media player application to permanently prevent the first type of reproduction quality degradation indicated by the first type of decryption key. Warren et al does not teach storing additional data on the host system that correlates a second type of decryption key with information that indicates that the digital information is to be reproduced without degradation in quality. Warren et al does not teach storing the second type of decryption key on the host system. Warren et al does not teach comparing the second type of decryption key to the additional data stored on the host system. Warren et al does not teach that the reproducing step includes reproducing the digital information on the media player application without degradation in quality based on the additional data comparing step.

Okada teaches information that indicates that the digital information is to be reproduced without degradation in quality instructs the media player application to permanently prevent the first type of reproduction quality degradation indicated by the first type of decryption key [column 19, lines 50-58]. Okada teaches storing additional data on the host system that correlates a second type of decryption key with information that indicates that the digital information is to be reproduced without degradation in quality [column 18, lines 6-12]. Okada teaches storing the second type of decryption key on the host system [column 18, lines 21-27]. Okada teaches comparing the second type of decryption key to the additional data stored on the

host system [column 18, lines 46-53]. Okada teaches that the reproducing step includes reproducing the digital information on the media player application without degradation in quality based on the additional data comparing step [column 19, lines 8-19].

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Warren et al so that there would have been information that indicated that the digital information was to be reproduced without degradation in quality and instructed the media player application to permanently prevent the first type of reproduction quality degradation indicated by the first type of decryption key. There would have been additional data stored on the host system that correlated to a second type of decryption key with information that indicates that the digital information was to be reproduced without degradation in quality. The second type of decryption key would have been stored on the host system. The second type of decryption key would have been compared to the additional data stored on the host system. The reproducing step would have included reproducing the digital information on the media player application without degradation in quality based on the additional data comparing step.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Warren et al by the teaching of Okada because it allows authenticated users to make a copy of the media without having degradation in the quality.

**13. Claims 8 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Warren et al U.S. Patent No. 5,963,909 as applied to claims 1 and 9 above, and further in view of Graunke et al U.S. Patent No. 5,991,399.**

As to claim 8, Warren et al does not teach that the media player application includes tamper-resistant software.

Graunke et al teaches a media player application that includes tamper-resistant software [column 4, lines 8-23].

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Warren et al so that the media player application would have included tamper-resistant software.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Warren et al by the teaching of Graunke et al because it improves the integrity of the trusted layer [column 4, lines 8-23].

**14. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Warren et al U.S. Patent No. 5,963,909 as applied to claims 9 above, and further in view of Duncan et al U.S. Patent No. 6,163,844.**

As to claim 10, Warren et al does not teach receiving information from a user of the host system. Warren et al does not teach the information indicating a desire to have unrestricted access to the digital information. Warren et al does not teach sending a second decryption key to the host system, the second decryption key instructing the application program to reproduce the digital information without degradation in quality.

Duncan et al teaches receiving information from a user of the host system [column 4, lines 39-51]. Duncan et al teaches the information indicating a desire to have unrestricted access to the digital information [column 4, lines 39-51]. Duncan et al teaches sending a second decryption key to the host system, the second decryption key instructing the application program

to reproduce the digital information without degradation in quality [column 13 line 55 to column 14 line 6].

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Warren et al so that information would have been received from a user of the host system. The information would have indicated a desire to have unrestricted access to the digital information. a second decryption key would have been sent to the host system. The second decryption key would have instructed the application program to reproduce the digital information without degradation in quality.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Warren et al by the teaching of Duncan et al because it allows an authorized user to receive the data with full use and without any degradation.

**15. Claims 11 and 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Warren et al U.S. Patent No. 5,963,909 as applied to claim 9 above, and further in view of Okada U.S. Patent No. 6,643,402 B1.**

As to claim 11 and 17-19, Warren et al does not teach a second decryption key that instructs the application program to reproduce the digital information without degradation. Warren et al does not teach storing additional data on the host system that correlates a second type of decryption key with information that indicates that the digital information is to be reproduced without degradation in quality. Warren et al does not teach storing the second type of decryption key on the host system. Warren et al does not teach comparing the second type of decryption key to the additional data stored on the host system. Warren et al does not teach that

the reproducing step includes reproducing the digital information on the media player application without degradation in quality based on the additional data comparing step.

Okada teaches a second decryption key that instructs the application program to reproduce the digital information without degradation [column 19, lines 50-58]. Okada teaches storing additional data on the host system that correlates a second type of decryption key with information that indicates that the digital information is to be reproduced without degradation in quality [column 18, lines 6-12]. Okada teaches storing the second type of decryption key on the host system [column 18, lines 21-27]. Okada teaches comparing the second type of decryption key to the additional data stored on the host system [column 18, lines 46-53]. Okada teaches that the reproducing step includes reproducing the digital information on the media player application without degradation in quality based on the additional data comparing step [column 19, lines 8-19].

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Warren et al so that there would have been a second decryption key that instructed the application program to reproduce the digital information without degradation. There would have been additional data stored on the host system that correlated to a second type of decryption key with information that indicates that the digital information was to be reproduced without degradation in quality. The second type of decryption key would have been stored on the host system. The second type of decryption key would have been compared to the additional data stored on the host system. The reproducing step would have included reproducing the digital information on the media player application without degradation in quality based on the additional data comparing step.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Warren et al by the teaching of Okada because it allows authenticated users to make a copy of the media without having degradation in the quality.

*Allowable Subject Matter*

**16. Claim 21 is allowed.**

As to claim 21, prior art does not teach or fairly discloses reproducing the digital information a second time, using a second decryption key, with a second quality of reproduction, the second quality of reproduction being degraded relative to the first quality of reproduction.

**17. Claim 24 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.**

As to claim 24, prior art does not teach or fairly disclose a second decryption key on the host system. Prior art does not teach or fairly disclose that the application program reproduces the digital information a second time based on the second decryption key. Prior art does not teach or fairly disclose that the second decryption key controls the application program to reproduce all of the digital information.

***Conclusion***

**18. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aravind K Moorthy whose telephone number is 571-272-3793. The examiner can normally be reached on Monday-Friday, 8:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz R Sheikh can be reached on 571-272-3795. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Aravind K Moorthy



April 1, 2005



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